IN THE HIGH COURT OF DELHI

RSA No.288/2007

Ishwari Devi ..... Appellant
! through: Mr.S.M.Chopra, Adv.

VERSUS

$ Om Prakash & Ors. ..... Respondents
^ through: Nemo

% DATE OF DECISION: 21.11.2007

CORAM:
* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**(Oral)
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1. I shall be referring to the respondents as the plaintiff and the appellant as the defendant.

2. Plaintiffs filed a suit for a permanent injunction inter alia alleging that the father of the plaintiffs owned the suit property and on his death same was inherited by the plaintiffs. That Hari Ram, husband of the defendant was inducted as a tenant in the suit premises by their father at a monthly rent of Rs.13/-. That their father had instituted an eviction petition against the husband of the defendant under Section 14(1)(e) of the Delhi Rent Control Act. That decree was not executed. That

after death of Hari Ram, defendant became a tenant and continued to pay the rent. That rent up to 12.9.1982 had been paid and thereafter none was paid. That the tenanted premises consisted of a room with tin sheds as per site plan. That on 19.8.1996 the defendant attempted to raise permanent constructions by demolishing the existing structure.

3. It was claimed that the plaintiffs are entitled to a decree for permanent injunction restraining the defendant from raising unauthorized constructions in the suit property.

4. Defence taken was that after decree of eviction was obtained against her husband, same not being executed, plaintiff lost all rights against the defendant. That she became owner by adverse possession. That as owner of the property she was entitled to deal with the property in whatsoever manner she chose to.

5. Learned courts below have taken the view and in my opinion rightly that having admitted that her husband was a tenant in the suit premises, principle of once a tenant always a tenant would apply unless by evidence it was established that relationship changed. That non-execution of the decree obtained by the father of the plaintiffs would not alter the status of either the defendant or her husband. I may additionally note that the courts below have also taken note of a decision passed

by a learned Civil Judge pertaining to a suit filed by the husband of the defendant seeking declaration that he was the owner of the suit property. He had lost the battle. Said decree of civil court had attained finality.

6. No fault can therefore be found with the view concurrently taken by both courts that the plaintiffs were the owner of the suit property and that the defendant was a tenant therein.

7. On the issue of entitlement of the defendant to raise constructions, suffice would it be to state that as per Building Bye-Laws applicable in the city of Delhi not even the owner can raise constructions or make additions and alterations without seeking a prior sanction from the municipal authorities.

8. Admittedly, no sanction has been obtained by the defendant. Even otherwise, without consent or permission from the landlord a tenant has no right to effect alterations or additional constructions in a tenanted premises. No fault can be found with the judgments and decrees of the courts below which have injuncted the defendant from raising unauthorized constructions in the suit property.

9. It is urged that the decree is too wide and the span of the decree sweeps even construction which may possibly be made in the future. Counsel has posed the question : What if

some repairs are required?

10. The answer is to be found in the decree and law. It is settled law that every decree has to be construed with reference to the law in force.

11. Constructions and repairs are treated separately in the municipal Building Bye laws. What has been injuncted in the instant case is the carrying on of unauthorized constructions.

12. No question of law, much less substantial questions of law arises for consideration in the instant appeal.

13. The appeal is dismissed in limine.

November 21, 2007 **PRADEEP NANDRAJOG, J.**
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